



General Assembly

February Session, 2014

***Raised Bill No. 5118***

LCO No. 981



Referred to Committee on ENERGY AND TECHNOLOGY

Introduced by:  
(ET)

***AN ACT CONCERNING THE UNDERGROUND DAMAGE PREVENTION PROGRAM.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-345 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 As used in this chapter:

4 [(a)] (1) "Person" means an individual, partnership, corporation,  
5 limited liability company or association, including a person engaged as  
6 a contractor by a public agency but excluding a public agency.

7 [(b)] (2) "Public agency" means the state or any political subdivision  
8 thereof, including any governmental agency.

9 [(c)] (3) "Public utility" means the owner or operator of  
10 underground facilities for furnishing electric, gas, telephone, telegraph,  
11 communications, pipeline, sewage, water, community television  
12 antenna, steam, [or] traffic signal, fire signal or similar service,  
13 including a municipal or other public owner or operator. A public

14 utility does not include the owner of facilities for utility service solely  
15 for such owner's private residence.

16 [(d)] (4) "Central clearinghouse" means the [group of] organization  
17 organized and operated by public utilities [formed] pursuant to section  
18 16-348, as amended by this act, for the purposes of receiving and  
19 giving notice of excavation, discharge of explosives and demolition  
20 activity within the state.

21 [(e)] (5) "Excavation" means an operation for the purposes of  
22 movement or removal of earth, rock or other materials in or on the  
23 ground, or otherwise disturbing the subsurface of the earth, by the use  
24 of powered or mechanized equipment, including but not limited to  
25 digging, blasting, auguring, back filling, test boring, drilling, pile  
26 driving, grading, plowing-in, hammering, pulling-in, trenching, [and]  
27 tunneling, dredging, reclamation processes and milling; excluding [the  
28 movement of earth by tools manipulated only by human or animal  
29 power and] the tilling of soil for agricultural purposes.

30 [(f)] (6) "Demolition" means the wrecking, razing, rending, moving  
31 or removing of any structure.

32 [(g)] (7) "Damage" includes, but is not limited to, the substantial  
33 weakening of structural or lateral support of a utility [line] facility such  
34 that the continued integrity of such utility facility is or is likely to be  
35 imperiled, penetration or destruction of any utility [line] facility  
36 protective coating, housing or other protective device or the severance,  
37 partial or complete, of any utility [line] facility.

38 [(h)] (8) ["Approximate location of underground facilities"]  
39 "Approximate location of an underground utility facility" means a strip  
40 of land not more than three feet wide centered on the actual location of  
41 an underground utility facility or a strip of land extending not more  
42 than one and one-half feet on either side of the actual location of an  
43 underground [facilities] utility facility.

44       Sec. 2. Section 16-346 of the 2014 supplement to the general statutes  
45       is repealed and the following is substituted in lieu thereof (*Effective*  
46       *October 1, 2015*):

47       No person, public agency or public utility shall engage in  
48       excavation, [or] discharge of explosives [at or near the location of a  
49       public utility underground facility or demolish a structure located at or  
50       near or containing a public utility facility] or demolition without  
51       having first ascertained the location of all underground facilities of  
52       public utilities in the area of such excavation, discharge or demolition  
53       in the manner prescribed in this chapter and in such regulations as the  
54       [authority] Public Utilities Regulatory Authority shall adopt pursuant  
55       to section 16-357.

56       Sec. 3. Section 16-347 of the general statutes is repealed and the  
57       following is substituted in lieu thereof (*Effective October 1, 2015*):

58       A public utility shall [file] register with the [Public Utilities  
59       Regulatory Authority the location of its] central clearinghouse the  
60       geographic areas in which it owns or operates underground facilities,  
61       [except facilities for storm sewers,] by reference to a standard [grid]  
62       mapping system, to be established by the [authority] central  
63       clearinghouse, and the title, address and telephone number of its  
64       representative designated to receive the notice required by section 16-  
65       349, as amended by this act.

66       Sec. 4. Section 16-348 of the general statutes is repealed and the  
67       following is substituted in lieu thereof (*Effective October 1, 2015*):

68       The public utilities of the state shall, under the direction of the  
69       Public Utilities Regulatory Authority, organize and operate a central  
70       clearinghouse within the state for receiving and giving the notices  
71       required by section 16-349, as amended by this act. The authority shall  
72       apportion the cost of this service equitably among the public utilities,  
73       [for those underground facilities registered with the authority, as  
74       provided in section 16-347, except sanitary sewer or water facilities

75 owned or operated by] except a city, town or borough that owns or  
76 operates only a sanitary sewer or water facilities.

77 Sec. 5. Section 16-349 of the general statutes is repealed and the  
78 following is substituted in lieu thereof (*Effective October 1, 2015*):

79 Except as provided in section 16-352, as amended by this act, a  
80 person, public agency or public utility responsible for excavating, [or]  
81 discharging explosives [at or near the location of public utility  
82 facilities] or demolishing a structure [containing a public utility  
83 facility] shall notify the central clearinghouse of such proposed  
84 excavation, discharge or demolition [, orally or in writing, at least two  
85 full days, excluding Saturdays, Sundays and holidays, but not more  
86 than thirty days before commencing such excavation, demolition or  
87 discharge of explosives] in a manner as prescribed by regulations  
88 adopted pursuant to section 16-357. Such notice shall include the  
89 name, address and telephone number of the [entity giving notice, the  
90 name of the] person, public agency or public utility performing the  
91 [work] excavation, discharge of explosives or demolition and the date,  
92 location and type of excavation, demolition or discharge of explosives.  
93 The central clearinghouse shall immediately transmit such information  
94 to the public utilities whose facilities may be affected. In the event the  
95 proposed excavation, demolition or discharge of explosives has not  
96 [commenced] been completed within [thirty days] the allotted time  
97 frame prescribed by regulation of such notification, or the excavation,  
98 demolition or discharge of explosives will be expanded outside of the  
99 location originally specified in such notification, the person, public  
100 agency or public utility responsible for such excavation, demolition or  
101 discharge of explosives shall again notify the central clearinghouse [at  
102 least two full days, excluding Saturdays, Sundays and holidays, but  
103 not more than thirty days before commencing or expanding such  
104 excavation, demolition or discharge of explosives] in a manner as  
105 prescribed by regulations adopted pursuant to section 16-357.

106 Sec. 6. Section 16-351 of the 2014 supplement to the general statutes

107 is repealed and the following is substituted in lieu thereof (*Effective*  
108 *October 1, 2015*):

109 A public utility receiving notice pursuant to section 16-349, as  
110 amended by this act, shall inform the person, public agency or public  
111 utility proposing to excavate, discharge explosives or demolish [a  
112 structure] of the approximate location of its underground facilities in  
113 the area in such manner as will enable such person, public agency or  
114 public utility to establish the [precise] actual location of the  
115 underground facilities, and shall provide such other assistance in  
116 establishing the [precise] actual location of the underground facilities  
117 as the authority may require by [regulation] regulations adopted  
118 pursuant to section 16-357. Such person, public agency or public utility  
119 shall designate the area of the proposed excavation, demolition or  
120 discharge of explosives as the authority may prescribe by [regulation]  
121 regulations adopted pursuant to section 16-357. The public utility  
122 receiving notice shall mark the approximate location of its  
123 underground facilities in such manner and using such methods,  
124 including color coding, as the authority may prescribe by [regulation]  
125 regulations adopted pursuant to section 16-357. If the [precise] actual  
126 location of the underground facilities cannot be established, the  
127 person, public agency or public utility shall so notify the public utility  
128 whose facilities may be affected, which shall provide such further  
129 assistance as may be needed to determine the [precise] actual location  
130 of the underground facilities in advance of the proposed excavation,  
131 discharge of explosives or demolition.

132 Sec. 7. Section 16-352 of the general statutes is repealed and the  
133 following is substituted in lieu thereof (*Effective October 1, 2015*):

134 (a) In case of emergency involving danger to life, health or property  
135 or which requires immediate correction to continue the operation of a  
136 major industrial plant, or to assure the continuity of public utility  
137 service, excavation or demolition without explosives may be made  
138 without [the two day] notice required by section 16-349, as amended

139 by this act, provided notice thereof [by telephone] is given as soon as  
140 reasonably possible.

141 (b) In case of an emergency involving an immediate and substantial  
142 danger of death or serious personal injury, explosives may be  
143 discharged if notice thereof is given at any time before discharge.

144 Sec. 8. Section 16-354 of the 2014 supplement to the general statutes  
145 is repealed and the following is substituted in lieu thereof (*Effective*  
146 *October 1, 2015*):

147 A person, public agency or public utility responsible for excavating,  
148 discharging explosives or demolition shall exercise reasonable care  
149 when working in proximity to the underground facilities of any public  
150 utility and shall comply with such safety standards and other  
151 requirements as the authority shall prescribe by [regulation]  
152 regulations adopted pursuant to section 16-357. If the facilities are  
153 likely to be exposed, such support shall be provided as may be  
154 reasonably necessary for protection of the facilities. If [gas facilities are  
155 likely to be exposed] excavation is within the approximate location of  
156 facilities containing combustible or hazardous fluids or gases, only  
157 hand digging or soft digging shall be employed. As used in this  
158 section, "soft digging" means a nonmechanical and nondestructive  
159 process used to excavate and evacuate soils at a controlled rate, using  
160 high pressure water or air jet to break up the soil, often used in  
161 conjunction with a high power vacuum unit to extract the soil without  
162 damaging the facilities.

163 Sec. 9. Section 16-355 of the general statutes is repealed and the  
164 following is substituted in lieu thereof (*Effective October 1, 2015*):

165 When any contact is made with or any damage is suspected or done  
166 to any underground facility of a public utility, the person, public  
167 agency or public utility responsible for the operations causing the  
168 contact, suspected damage or damage shall immediately notify the  
169 public utility whose facilities have been affected, which shall dispatch

170 its own personnel as soon as reasonably possible to inspect the  
171 underground facility and, if necessary, effect temporary or permanent  
172 repairs. If a serious electrical short is occurring or if dangerous fluids  
173 or gas are escaping from a broken line, the person, public agency or  
174 public utility responsible for the operations causing the damage shall  
175 alert all persons within the danger area and take all feasible steps to  
176 insure the public safety pending the arrival of repair personnel. As  
177 used in this section, "contact" includes, without limitation, the striking,  
178 scraping or denting, however slight, of any underground utility  
179 facility, [the structural or lateral support of an underground utility line  
180 and] including any underground utility [line] facility protective  
181 coating, housing or other protective device. Contact does not include  
182 damage, as defined in section 16-345, as amended by this act.

183       Sec. 10. Section 16-356 of the general statutes is repealed and the  
184 following is substituted in lieu thereof (*Effective October 1, 2015*):

185       Any person, public agency or public utility which the Public  
186 Utilities Regulatory Authority determines, after notice and  
187 opportunity for a hearing as provided in section 16-41, to have failed to  
188 comply with any provision of this chapter or any regulation adopted  
189 under section 16-357 shall forfeit and pay to the state a civil penalty of  
190 not more than forty thousand dollars, provided any violation  
191 involving the failure of a public utility to mark [the] any approximate  
192 location of an underground [facilities] utility facility correctly or within  
193 the timeframes prescribed by regulation, which violation did not result  
194 in any property damage or personal injury and was not the result of an  
195 act of gross negligence on the part of the public utility, shall not result  
196 in a civil penalty of more than one thousand dollars. Notwithstanding  
197 the provisions contained in subsection (d) of section 16-41, the person,  
198 public agency or public utility receiving a notice of violation pursuant  
199 to subsection (c) of section 16-41 shall have thirty days from the date of  
200 receipt of the notice in which to deliver to the authority a written  
201 application for a hearing.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2015</i>	16-345
Sec. 2	<i>October 1, 2015</i>	16-346
Sec. 3	<i>October 1, 2015</i>	16-347
Sec. 4	<i>October 1, 2015</i>	16-348
Sec. 5	<i>October 1, 2015</i>	16-349
Sec. 6	<i>October 1, 2015</i>	16-351
Sec. 7	<i>October 1, 2015</i>	16-352
Sec. 8	<i>October 1, 2015</i>	16-354
Sec. 9	<i>October 1, 2015</i>	16-355
Sec. 10	<i>October 1, 2015</i>	16-356

***Statement of Purpose:***

To update statutes relating to the Call Before You Dig program to reflect current practices and technologies.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*